

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
COUNTY OF NEWPORT**

At a meeting of the Town Council of the Town of Tiverton, County and State aforesaid, held at the Tiverton Town Hall, 343 Highland Road, on the 24th day of August 2009 A.D. at 7:00 p.m.

President Bollin opened the meeting with the Pledge of Allegiance to the Flag.

Roll Call:	Donald Bollin-President	Jay Lambert
	JoAnne Arruda-Vice President	Cecil E. Leonard
	Hannibal Costa	Edward Roderick
	Louise Durfee	

Town Administrator, James C. Goncalo
Town Solicitor, Andrew M. Teitz were also present.

Approval of Consent Agenda:

All items listed with (CA) are to be considered routine by the Town Council and will be enacted by one motion. There will be no separate discussion of these items unless a member of the Council or a member of the public so requests, in which event the item will be removed from Consent Agenda (CA) consideration and considered in its normal sequence on the agenda.

Council President Bollin read the items on the Consent Agenda.

Town Clerk Nancy Mello requested the removal of item A-1b, Executive Session Minutes, August 11, 2009 to amend the Open Session.

Councilor Durfee made a motion, seconded by Councilor Arruda to approve the remaining items on the Consent Agenda. Motion passed unanimously.

The Consent Agenda was as follows:

CONSENT AGENDA:

A-1-Approval of Minutes of Previous Meetings:

a. Approval of Minutes from August 11, 2009 Regular Council Meeting Councilor Leonard abstained - Absent

A-2-Receipt of Minutes from Various Board and Commissions:

- | | |
|------------------------------|------------------------------------|
| a. Wastewater Management (2) | c. Historical Cemetery Commission |
| b. Cemetery Commission | d. Economic Development Commission |
| e. Recreation Commission | f. Planning Board |

A-3-Correspondence:

a. Received From Newport Convention & Visitors Bureau Regarding Auditors' Report Year Ending March 31, 2009 – Available in Clerk's Office

A-4-Approval of Tax Assessor Abatements

Approval of Executive Session Minutes from August 11, 2009 Council Meeting Councilor Leonard abstained – Absent

Town Clerk asked to amend the Open Session portion of the Executive Session Minutes of August 11, 2009 for minor corrections regarding Councilor's motions.

Councilor Durfee made a motion, seconded by Councilor Roderick to approve the Open Session of the Executive Session Minutes as corrected. Motion passed 6-1, Councilor Leonard abstained-absent.

PROCLAMATION FOR CENTENARIAN SAUL BELSON

**TOWN OF TIVERTON, RHODE ISLAND
TOWN COUNCIL**

PROCLAMATION "CONGRATULATIONS TO SAUL BELSON ONE HUNDRED YEARS"

WHEREAS: Saul Belson was born on September 12, 1909; and

WHEREAS: Saul Belson resides in independent living at Sakonnet Bay Manor, 1215 Main Road in Tiverton, Rhode, Island; and

WHEREAS: Saul Belson was born in London, came to America with his family at age four, grew up and lived in Chicago most of his life; and

WHEREAS: Saul Belson was married to Dora Gaffen on August 5, 1934 and shared 71 happy years with his wife until her passing in March 2006; and

WHEREAS: Saul Belson has two sons, Harold Belson and his family of Portsmouth, Rhode Island and David Belson of Vail, Colorado, three grandchildren and three great-grandchildren; and

WHEREAS: Saul Belson had a career as a dental technician, worked with his father in the hardware business and was a sales representative for a coal and oil company. Saul was also in the Coast Guard Reserve during World War II; and

WHEREAS: Saul Belson continues to love golfing on grounds at Sakonnet Bay, swimming, dancing with his companion and playing his violin; and

WHEREAS: Saul Belson's primary hobby was bone carving. Saul made hundreds of figurines and two chess sets. Saul's work was most recently chronicled in the Providence Journal, Newport Daily News and the Sakonnet Times in 2006;

BE IT THEREFORE PROCLAIMED: That every official and citizen of the Town of Tiverton extends to Saul Belson and his family the very best wishes and blessed assurance for continued good health and peace; and congratulates Saul Belson on his One-Hundredth Birthday,

September 12, 2009.

TIVERTON TOWN COUNCIL:

Donald Bollin President, Tiverton Town Council August 24, 2009

PRESENTATION BY PLACING PAWS

Councilor Jay Lambert was presented a Special Pillow as Hero of the Year for his support and donation to the Animal Shelter.

INVITATION TO TIVERTON LEGISLATORS FOR UPDATE OF GENERAL ASSEMBLY ACTIVITY

Representatives John Loughlin II and Jay Edwards appeared before the Council to update activity in the Legislature. Just prior to the Meeting, Governor Carcieri, earlier in the day, proposed withholding the 4th Quarter Motor Vehicle tax payment, \$350,000 and announced 12 furlough days for State employees. The Governor was also seeking legislation for the power to unilaterally withhold appropriations. Revenue projections are worse than projected in January, unless a drastic turnaround, there will be a direct impact on local budgets and perhaps a supplemental budget. Rep. Loughlin had proposed legislation for relief from mandates, however it was defeated. Both Reps. asked the Council to forward concerns and input on legislation.

Councilor Durfee noted the Town could only do so much without relief from mandates. The Municipal side of the Town Budget has been level funded for two years, absorbing a 5% increase. President Bollin also noted State funding was taken out of the Budget, the Town was not given a way to make it up with mandate relief leaving it down to cutting services. Can't continue with a level funded Budget. Councilor Durfee noted the Municipal side has struggled and has had some personnel layoffs. Councilor Lambert graded the General Assembly with a failing grade; unemployment is second in the nation, losing population.

Rep. Edwards introduced a bill to lower the sales tax to 4%; Massachusetts tax is 6.25%, to draw business. Pension reform has not been addressed at the Municipal level; Rep. Loughlin sees only adjustments, and not reform on State level. Councilor Costa questioned the legislation proposed on binding arbitration for teacher contracts. Rep. Loughlin had proposed a bill to change the wording from shall to may, which didn't make it out of committee. Councilor Leonard noted there doesn't seem to be political will toward consolidation, doesn't make sense for a State this size to have 39 School Districts, even if the Town proposed the idea it would take enabling legislation. Councilor Arruda has observed the Finance Committee in Providence, overspending rested with the Administration.

President Bollin thanked both Representatives and urged them to keep the pressure on the legislature.

BUSINESS BROUGHT BEFORE THE COUNCIL:
PUBLIC HEARINGS- ADVERTISED

Tiverton Power, Inc. Attorney Richard A. Sherman – Proposed Amendment to the Town Zoning Map Continued
From June 8th Council Meeting

a. Request by Tiverton Power, Inc to Continue Public Hearing to Sept. 14th Meeting

Councilor Costa made a motion, seconded by Councilor Leonard that the request by Tiverton Power, Inc. to continue the Public Hearing to September 14, 2009 on Proposed Amendment to the Town Zoning Map be granted. Motion passed unanimously.

Landfill/Recycle Committee – Proposed Amendments to the “Solid Waste Management” Chapter 66 of Code of Ordinances - “No Bin/No Barrel” Policy

President Bollin opened the advertised Public Hearing on Proposed Amendments to Chapter 66 of Code of Ordinances-“No Bin/No Barrel Policy”. Residents asked for specifics to the Ordinance-needing 2 bins, one blue, one green even if empty and provisions regarding enforcement. DPW Director Steve Berlucchi noted 2 bins currently have to be put out with the trash by the Ordinance, planned to mail out pamphlets to every household once the Council votes on No Bin/No Barrel (NB/NB). Enforcement requires the two bins put out or the trash will not be picked up. Resident Roger Bennis passed out handouts summarizing his views People are being penalized for doing the right thing. Resident Laura Epke noted the language for the Ordinance needed to be changed to reflect “empty containers” and what is to prevent someone from taking the containers to the landfill.

Councilor Lambert noted the trash hauler is not paid to police the trash; language in the current Ordinance does state the Town has the right to deny collection. Another resident observed past recycling pick up at 6:00 am but trash was not picked up until 4:00 pm, meaning the bins would be out all day, problem if very windy, maybe schedule can be changed. DPW Director Berlucchi has met with Patriot, the trash hauler, to discuss stacking empty bins together after being emptied. Now when a bin is sold residents name and addresses are put on the bins, ask residents to do the same. Councilor Roderick previously questioned multiple addresses where the trash is put at the end of the street. Mr. Bennis questioned the amount collected in penalties to date, Ordinance needs enforcement. Resident Virginia Butterworth asked the Council to revisit the Ordinance in 6-9 months so residents have concrete evidence the Ordinance is working.

President Bollin closed the Public Hearing at this time being no other comments.

Councilor Costa wanted continued measurements of how much is being recycled now and after several months.

Councilor Durfee made a motion to adopt the Ordinance as it is written. Councilor Costa seconded the motion for discussion. Councilor Roderick agreed with Councilor Durfee keep as written. President Bollin noted recycling has not increased in the last two years; Councilor Durfee commended the Landfill/Recycling Committee for their efforts, and noted this is one area the Town can save money, has some control of the costs and defers a major expense. DPW Director estimated the landfill closure amount between \$6 and 8 million. Motion passed unanimously.

Solicitor Teitz noted the Amendment to the Ordinance takes effect immediately.

FINANCIAL BUSINESS:

Philip DiMattia, Town Treasurer

a. June 2009 Budget and Revenue Report

Councilor Durfee asked the Treasurer if the General Fund increased or decreased for the prior fiscal year. Mr. DiMattia replied there was a net positive increase of \$752,000. Councilor Durfee noted, after several questions, this figure did not take into account the school portion and wanted to know if the Town operated a budget within it's means. Treasurer's response was to look at the General Fund and the \$12 million he had invested in Citizen's bank. Councilor Roderick asked if funds had to be drawn from the General Fund did the Town pay all its bills. Treasurer again replied there was a net asset of \$752,000 and was applied to the reserve. Councilor Durfee asked about the Carry Overs, the Landfill Account, the school funds and the interest from the sewer interceptor bond. Treasurer replied the Landfill restricted account was not part of the General Fund. Councilor Durfee again asked about the accounting for expenditures and what needed to be subtracted from the \$752,000. Treasurer replied that amount was a net positive asset. Councilor Durfee noted that was incorrect and asked if the school stimulus check was reflected on this report.

Resident Laura Epke had several questions about school debits and credits, uncollectibles and abatements. Councilor Durfee was concerned about not getting accurate information and the inability of the Treasurer to determine the bottom line as of June 30, 09. Treasurer DiMattia will research and report to the Council at the next meeting.

b. FY 2009-2010 Overtime Report \$94,026.82 (July 1-August 27, 2009) Fire Department \$73,931.74, Police Department \$20,095.08

Treasurer DiMattia presented the Council with some overtime statistics-Fire Dept. has spent 33% of this F/Y overtime budget, 19% for the Police Dept. Represents 2500 hours of overtime for Fire Dept., sees danger, suggests address at a workshop. Administrator

Goncalo addressed the issue-Police Dept. had encumbered \$3,700 for month of July while spending \$3,895, only a small amount impacted from this year's budget, will get \$5,000 from a grant for speeding enforcement.

The Fire Dept. OT, for the first payroll \$10,000 was encumbered, impact only \$5,000. From Memorial Day to Labor Day, two men can go on vacation at a time, after Labor Day only one, OT will reduce significantly. Fire Dept. overtime always an issue, trying to correct with these negotiations. Several extraordinary events contributed to the overtime.

c. Salary Survey Reported to State Government

Treasurer submitted a Salary Survey being sent to the Office of Local Government Assistance.

APPOINTMENTS & RESIGNATIONS:

Interview for Appointment to Cemetery Commission- Peter J. Sullivan

Peter Sullivan, retired elementary school teacher with a background in Pastoral Care, interviewed for the Cemetery Commission.

1.Appointment to Cemetery Commission- (one vacancy for term to expire on 6/30/2012)

a. Peter J. Sullivan **b. Jeffrey E. Megna** **c. Christopher M. Higgins**

Councilor Costa nominated the two candidates interviewed last meeting to include Mr. Higgins and Mr. Megna as alternate. Solicitor Teitz noted according to the Charter this commission has five members; the Council does not have the authority to appoint alternates. Councilor Costa's motion failed 2-5, Councilors Arruda, Bollin, Durfee, Leonard and Roderick opposed.

Councilor Durfee nominated Peter J. Sullivan for appointment to the Cemetery Commission for a term to expire on 6/30/2012. Motion passed 5-1-1, Councilor Costa opposed, Councilor Lambert abstained.

Appointment to Newport Convention and Tourism Bureau

a. David Stewart **b. William Enos**

Councilor Roderick noted both candidates were excellent and nominated William Enos for Appointment to the Newport Convention and Tourism Bureau. Nomination passed unanimously.

Resignation of Jennifer Rashleigh from Tiverton Library Board of Trustees

a. Appointment of James R. Barrett for Unexpired Term to Expire 6/30/2012

b. Recommendation Letter Received From B. Donnelly, Chair Board of Trustees

Councilor Durfee made a motion, seconded by Councilor Arruda to accept with regret the Resignation of Jennifer Rashleigh from the Tiverton Library Board of Trustees. Motion passed unanimously.

Councilor Durfee made a motion, seconded by Councilor Arruda to appoint James Barrett to the Tiverton Library Board of Trustees for an unexpired term to expire on 6/30/2012. . Motion passed 6-0-1, Councilor Lambert abstained, did not know or have opportunity to interview candidate.

UNFINISHED BUSINESS

Councilor Leonard – Evaluation Process for Town Administrator per Town Charter Section 407, Paragraph 5, Continued from August 11th Meeting

Councilor Leonard noted Administrator Goncalo had no objection to the two additional questions submitted by Councilor Durfee.

Councilor Leonard made a motion, seconded by Councilor Roderick to add the two questions to questionnaire. Motion passed unanimously.

Councilor Leonard asked the Clerk to circulate the revised form as amended. Councilor Costa asked for Dept. Head evaluations first. Councilor Leonard reminded him the Council was a little behind on the timeline for the Administrator evaluation.

Councilor Leonard made a motion, seconded by Councilor Roderick for the Town Clerk to circulate the questionnaire by August 31st and be returned to the Clerk by September 10th. Motion passed 6-1, Councilor Costa abstained.

NEW BUSINESS:

Town Council/Wastewater Management – Recommendations and Findings Regarding Mount Hope Bay Sewer Interceptor

Wastewater Management Commission (WWMC) Chairman Leroy Kendricks came before the Council with recommendations and findings regarding the Mt. Hope Bay Sewer Interceptor. The flow meter was tested again. The

conclusion was there is a significant influence from Fall River and the use of this line for billing purposes is not recommended. The WWMC recommends the Town accept the Interceptor and return the retainage to the contractor and close out the job. The flow meter and the flume were based on design and plans as specified by the Town in the 1970's. President Bollin was concerned about releasing the retainage if there are flow problems. Chairman Kendricks stated the problems are not the causes of the contractor.

Councilor Durfee made a motion to accept the recommendation of the Wastewater Management Commission on the Mt. Hope Bay Sewer Interceptor and release the retainage. Seconded by Councilor Roderick motion passed unanimously.

Town Clerk – Approval of Agenda for Workshop/Special Meeting to be Held on August 31, 2009

Councilor Durfee made a motion, seconded by Councilor Arruda to change the Closed Executive Session to two separate items-Litigation 42-46-5(a)(2) and Prospective Business or Industry-42-46-5 (a)(6), based on a request from the Solicitor. Motion passed unanimously.

Councilor Leonard made a motion to move Dan Beardsley from the League of Cities and Towns first on the agenda. Seconded by Councilor Arruda motion passed unanimously.

TOWN ADMINISTRATOR ANNOUNCEMENTS, COMMENTS AND QUESTIONS:

1. Thanked the U.S. Navy for the donation of chairs lining the walls of the Council Chambers.
2. Meeting on Sept. 4th with DOT to review proposed parking on Main Road.
3. Honoring a request by the Police Dept. to use the Old Ranger School for training in early October, funded by a State Grant.
4. No. Tiverton Fire Station now connected to sewer lines.
5. Sept. 8th there is a tour of the Manchester St. power station. Councilors attending let Admin. Know.

TOWN SOLICITOR, ANNOUNCEMENTS, COMMENTS AND QUESTIONS:

Attorney General Response to Campbell Complaint

The most recent response from the Attorney General regarding Campbell v. Town of Tiverton, an access to Public Records complaint. A/G found not a willful violation, discussion scheduling a workshop with Town on access to Public Records, most violations technical.

Municipal Court Decision on Town of Tiverton v. James and Melissa Pelletier

This Municipal Court Decision distributed for Council review, decision was appealed today in Superior Court.

CLOSED EXECUTIVE SESSION

1. Town Solicitor - Litigation – 42-46-5(a) (2)

2. Town Administrator – 42-46-5(a)(5) – Acquisition or Disposition of Town Held Property

3. Town Solicitor – 42-46-5(a)(6) - Prospective Business or Industry

Councilor Durfee made a motion, seconded by Councilor Arruda to enter into Executive Session pursuant to 42-46-5(a)(2)-Litigation. Motion passed unanimously.

Councilor Durfee made a motion, seconded by Councilor Arruda to remain in Executive Session pursuant to 42-46-5(a)(5)-Acquisition or Disposition of Town Held Property. Motion passed unanimously.

Councilor Durfee made a motion, seconded by Councilor Arruda to continue in Executive Session pursuant to 42-46-5(a)(6)-Prospective Business or Industry. Motion passed unanimously.

The Council entered into Executive Session at approximately 9:45 p.m.

The Council returned to Open Session at approximately 11:00 p.m.

OPEN SESSION:

Council President Bollin announced formal action was taken in Executive Session.

Councilor Durfee motioned to seal the minutes of Executive Session, seconded by Councilor Arruda. Motion passed unanimously.

ADJOURNMENT:

Councilor Durfee made a motion, seconded by Councilor Arruda to adjourn. Motion passed unanimously.

The meeting adjourned at approximately 11:05 p.m.

A True Copy.

ATTEST: _____
Nancy L. Mello, Town Clerk